

CLOSED

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

United States of America**v.****JUDGMENT IN A CRIMINAL CASE**

(For Offenses Committed on or After November 1, 1987)

Josue Luis Martinez-Cruz**No. 08-16026-001M-SD**

Citizen of Mexico

Lorna Spencer (AFPD)
Attorney for Defendant

USM#: 76595-208

DOB: 1978

ICE#: A95 624 592

THE DEFENDANT ENTERED A PLEA OF guilty on 8/14/2008 to Count TWO of the Complaint.**ACCORDINGLY, THE COURT HAS ADJUDICATED THAT THE DEFENDANT IS GUILTY OF THE FOLLOWING OFFENSE(S):** violating Title 8, USC § 1325, Illegal Entry, a Petty offense, as charged in Count TWO of the Complaint.**IT IS THE JUDGMENT OF THE COURT THAT** the defendant is hereby committed to the custody of the Bureau of Prisons for a term of SEVENTY-FIVE (75) DAYS on Count TWO, with credit for time served.**IT IS FURTHER ORDERED** that all remaining counts are dismissed on motion of the United States.**CRIMINAL MONETARY PENALTIES**

The defendant shall pay to the Clerk the following total criminal monetary penalties:

SPECIAL ASSESSMENT: \$Remitted**FINE:** \$**RESTITUTION:** \$

If incarcerated, payment of criminal monetary penalties are due during imprisonment at a rate of not less than \$25 per quarter and payment shall be made through the Bureau of Prisons' Inmate Financial Responsibility Program. Criminal monetary payments shall be made to the Clerk of U.S. District Court, Attention: Finance, 880 Front Street, San Diego, California 92101. Payments should be credited to the various monetary penalties imposed by the Court in the priority established under 18 U.S.C. § 3612(c). The total special assessment of \$Remitted shall be paid pursuant to Title 18, United States Code, Section 3013 for Count TWO of the Complaint.

Any unpaid balance shall become a condition of supervision and shall be paid within prior to the expiration of supervision. Until all restitutions, fines, special assessments and costs are fully paid, the defendant shall immediately notify the Clerk, U.S. District Court, of any change in name and address. The Court hereby waives the imposition of interest and penalties on any unpaid balances.

IT IS FURTHER ORDERED that the Clerk of the Court deliver two certified copies of this judgment to the United States Marshal of this district.

The Court orders commitment to the custody of the Bureau of Prisons.
The defendant is remanded to the custody of the United States Marshal.

08-16026-001M-SD

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USA vs. Josue Luis Martinez-Cruz

Date of Imposition of Sentence: **Friday, August 15, 2008**

JAY R. IRWIN, United States Magistrate Judge

Date 8/15/2008

RETURN

I have executed this Judgment as follows: _____

Defendant delivered on _____ to _____ at _____, the institution designated by the Bureau of Prisons, with a certified copy of this judgment in a Criminal case.

United States Marshal
08-16026-001M-SD -

By: _____
Deputy Marshal

DATE: 8/15/2008 CASE NUMBER: 08-16026-001M-SD

PLEA/SENTENCING MINUTES

USA vs. Josue Luis Martinez-Cruz

U.S. MAGISTRATE JUDGE: JAY R. IRWIN Judge #: 70BK

U.S. Attorney _____ INTERPRETER REQ'D Ricardo Gonzalez
LANGUAGE: Spanish

Attorney for Defendant Lorna Spencer (AFPD)

DEFENDANT: ☒ PRESENT ☐ NOT PRESENT ☐ RELEASED ☒ CUSTODY

DOA _____ ☐ Complaint Filed ☐ Appointment of counsel hearing held
☐ Financial Afdvt taken ☐ No Financial Afdvt taken ☐ Financial Afdvt sealed
☐ Initial Appearance

DETENTION HEARING: ☐ Held ☐ Cont'd ☐ Reset ☐ UA

Set for: before:

☐ Defendant ordered temporarily detained in the custody of the United States Marshal
☐ Defendant ordered released (see order setting cond of rel) ☐ Bail set at \$ _____
☐ Defendant continued detained pending trial ☐ Flight Risk ☐ Danger

PLEA HEARING: ☐ Held ☐ Cont'd ☐ Reset

Set for: before:

☐ Consent to be tried by a Magistrate Judge signed ☐ Class A Misd ☐ Class B Misd ☐ Class C Misd
☐ Consent of Defendant ☐ Information filed _____ ☐ Complaint filed _____
☐ Defendant sworn and examined by the Court ☐ Plea of Guilty ☐ Not Guilty ☐ Entered to Counts _____
☐ Defendant states true name to be _____. Further proceedings ORDERED in defendant's true name.
☐ Plea of Guilty entered as to Ct(s) _____ of the ☐ Information ☐ Indictment ☒ Complaint
☐ Court recommends/or accepts defendant's plea and finds plea to be freely and voluntarily given.
☐ Plea agreement: ☐ Lodged ☐ Filed ☐ Sealed
☐ Court does not accept defendant's plea of guilty because _____
☐ PSI ORDERED ☐ EXPEDITED ☐ PSI waived ☐ Time waived for passage of sentence
☐ Continued for sentence to ____ before _____
☐ To be dismissed upon entry of the judgment, Ct(s) ____
☐ ORDER vacate trial date/motion hearing/mtns moot
☐ ORDER defendant remain released pending sentence ☐ remanded to USM

SENTENCING:

☒ Defendant committed to Bureau of Prisons for a period of 75 days ☐ Probation/Supervised Release for
☒ Special Assessment \$ REMITTED ☐ Fine \$ _____ ☐ Restitution \$ _____

Other: _____

RECORDED: CS
BY: Angela J. Tuohy, Deputy Clerk

DATE: 8/14/2008 CASE NUMBER: 08-16026-001M-SD

PLEA/SENTENCING MINUTES

USA vs. Josue Luis Martinez-Cruz

U.S. MAGISTRATE JUDGE: JAY R. IRWIN Judge #: 70BK

U.S. Attorney _____ INTERPRETER REQ'D Ricardo Gonzalez
LANGUAGE: Spanish

Attorney for Defendant Brenda Acosta Sandoval (AFPD)

DEFENDANT: ☒ PRESENT ☐ NOT PRESENT ☐ RELEASED ☒ CUSTODY

DOA 8/13/08 ☒ Complaint Filed ☒ Appointment of counsel hearing held
☐ Financial Afdvt taken ☒ No Financial Afdvt taken ☐ Financial Afdvt sealed
☒ Initial Appearance

DETENTION HEARING: ☐ Held ☐ Cont'd ☐ Reset ☐ UA
Set for: before:

- ☐ Defendant ordered temporarily detained in the custody of the United States Marshal
☐ Defendant ordered released (see order setting cond of rel) ☐ Bail set at \$ _____
☐ Defendant continued detained pending trial ☐ Flight Risk ☐ Danger

PLEA HEARING: ☒ Held ☐ Cont'd ☐ Reset
Set for: before:

- ☐ Consent to be tried by a Magistrate Judge signed ☐ Class A Misd ☐ Class B Misd ☐ Class C Misd
☐ Consent of Defendant ☐ Information filed _____ ☐ Complaint filed _____
☒ Defendant sworn and examined by the Court ☒ Plea of Guilty ☐ Not Guilty ☒ Entered to Counts TWO
☐ Defendant states true name to be _____. Further proceedings ORDERED in defendant's true name.
☒ Plea of Guilty entered as to Ct(s) TWO of the ☐ Information ☐ Indictment ☒ Complaint
☒ Court recommends/or accepts defendant's plea and finds plea to be freely and voluntarily given.
☐ Plea agreement: ☐ Lodged ☐ Filed ☐ Sealed
☐ Court does not accept defendant's plea of guilty because _____
☐ PSI ORDERED ☐ EXPEDITED ☒ PSI waived ☐ Time waived for passage of sentence
☒ Continued for sentence to 8/15/08 at 10:00 am before Magistrate Judge Irwin
☒ To be dismissed upon entry of the judgment, Ct(s) ONE
☒ ORDER vacate trial date/motion hearing/mtns moot
☐ ORDER defendant remain released pending sentence ☒ remanded to USM

SENTENCING:

- ☐ Defendant committed to Bureau of Prisons for a period of ____ ☐ Probation/Supervised Release for _____
☐ Special Assessment \$ _____ ☐ Fine \$ _____ ☐ Restitution \$ _____

Other: Defendant denies the criminal history on the Complaint belongs to him. Court orders the Government to submit the defendant's fingerprints to FBI.

RECORDED: CS

BY: Angela J. Tuohy, Deputy Clerk

United States District Court

SOUTHERN DISTRICT OF CALIFORNIA

8/13

UNITED STATES OF AMERICA

V.

Josue Luis MARTINEZ-Cruz

Citizen of Mexico

YOB: 1978

095624592

Illegal Alien

CRIMINAL COMPLAINT

CASE NUMBER: 08-16026-M-SD

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

COUNT I


That on or about August 4, 2005, Defendant Josue Luis MARTINEZ-Cruz was arrested and removed from the United States to Mexico through the port of San Ysidro, California, in pursuance of law, and thereafter on or about August 13, 2008, Defendant was found in the United States near Andrade, California within the Southern District of California, the Secretary of the Department of Homeland Security not theretofore having consented to any reapplication by the Defendant for admission into the United States and after the Defendant had willfully and unlawfully returned and remained in the United States; in violation of Title 8, United States Code, Section 1326 (Felony).

COUNT II

That on or about August 13, 2008, within the Southern District of California, Defendant Josue Luis MARTINEZ-Cruz, an alien, did knowingly and willfully enter the United States at a time or place other than as designated by Immigration Officers; in violation of Title 8, United States Code, Section 1325 (Misdemeanor).

Continued on the attached sheet and made a part hereof. ☒ Yes ☐ No

Sworn to before me and subscribed in my presence,


Signature of Complainant

Cesar Duarte

Senior Patrol Agent

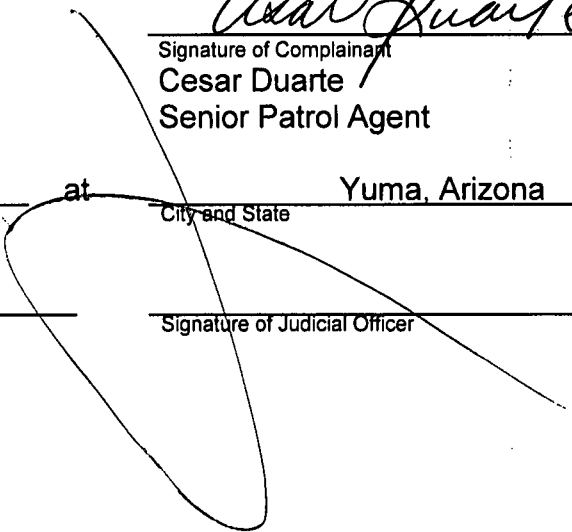
August 14, 2008
Date

at

City and State

Yuma, Arizona

Jay R. Irwin, U.S. Magistrate
Name & Title of Judicial Officer


Signature of Judicial Officer

STATEMENT OF FACTUAL BASIS

Defendant: Josue Luis MARTINEZ-Cruz
 Dependents: 1 Mexican

IMMIGRATION HISTORY: The Defendant was last removed through San Ysidro, California on August 4, 2005. The Defendant has been arrested by the U.S. Border Patrol on **eight (8)** occasions.

CRIMINAL HISTORY:

<u>DATE/LOCATION</u>	<u>OFFENSE</u>	<u>DISPOSITION</u>
07/20/99 Salt Lake City, UT	DUI Class B	None listed
	False Information Class B	None listed
	No Drivers License	None listed
04/22/00 Norwalk, CA	Forge Official Seal	None listed
04/07/01 Norwalk, CA	False Imprisonment W/ Violence	None listed
	Burglary	None listed
07/07/03 Santa Ana, CA	Threaten Crime W/ Intent to Terrorize	Probation (Two Years)
	Inflict Corporal Injury Spouse	Probation (Two Years)
	Force Assault Deadly	Three (3) Years Prison
	Weapon (ADW) Not Firearm	
06/24/05 El Centro, CA	Violation of Parole	None listed
	8 USC 1325 Entry Without Inspection	Removed to Mexico

Narrative: The Defendant, a citizen of Mexico and illegally within the United States, was encountered by Yuma Border Patrol agents near Andrade, California.

The Defendant was questioned as to his citizenship and immigration status. From that questioning agents determined that the Defendant is an undocumented national of Mexico and illegally in the United States.

The Defendant was transported to the Yuma station for processing. During processing, questioning and computer record checks the above criminal and immigration information was obtained as it relates to this Defendant.

The Defendant has been formally removed from the United States on two separate occasions, June 15, 2005 and August 4, 2005.

The Defendant last entered the United States illegally without inspection near Andrade, California on August 13, 2008.

Charges: 8 USC§1326
 8 USC§1325

(Felony)
 (Misdemeanor)

Signature of Complainant

Sworn to before me and subscribed in my presence,

August 14, 2008

Date

Signature of Judicial Officer